



DELTA CAUCUS

CONTRA COSTA - SACRAMENTO - SAN JOAQUIN - SOLANO - YOLO

April 8, 2011

Ms. Terry Macaulay
Deputy Executive Officer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Submitted via email: deltaplancomment@deltacouncil.ca.gov

Dear Ms. Macaulay:

In an effort to protect and promote the viability of Delta agriculture, five Delta County Farm Bureaus (Contra Costa, Sacramento, San Joaquin, Solano and Yolo) joined together in 2009 to form the Delta Caucus ("Caucus"). Since that time, the Caucus has been working on efforts that promote awareness of the Delta as a unique and vital piece to our agricultural heritage. The Caucus takes into account the need for water reliability statewide and supports efforts and processes to responsibly plan for California's water future, the need to protect and restore the Delta ecosystem, while also enhancing the recreational, natural resources and agricultural values. The Caucus appreciates the opportunity to comment on the second Staff Draft Delta Plan dated March 18, 2011.

Our comments rely heavily on the required protection and enhancement of Delta agriculture. The Delta Stewardship Council is tasked with creating a Delta Plan, which provides a "more reliable water supply for California and restoring and enhancing the Delta ecosystem and does this in a manner that protects and enhances the unique cultural, recreational, natural resources and agricultural values of the Delta as an evolving place (Water Code section 85054)." In addition, it is State policy that protecting and enhancing "the unique cultural, recreational, and agricultural values of the California Delta as an evolving place" is inherent in pursuing the coequal goals for the management of the Delta (page 1 lines 6-18). Clearly, one of the objectives the Delta Plan must achieve is to protect and enhance agricultural values in the Delta in a manner which allows for evolving conditions over time. We believe that this draft plan does not accomplish that objective. The Delta Caucus would offer the following changes be made:

1. **Page 4, line 14-15:** Because the vision for what the Delta Plan will achieve by 2100 should include all eight objectives of the Plan, we would request that lines 14-15 are changed to read as follows:

"The Delta will remain a unique cultural, recreational and agriculturally productive region. Visitors from around the world will be drawn to the Delta for recreation and to experience its beauty, ecosystem and agricultural bounty."

This change will ensure that the Delta Plan protects and enhances all Delta values including agriculture.

2. Page 4, line 20: Change lines 19-21 to read as follows:

"Progress in achieving coequal goals will provide a strong foundation for protecting and enhancing the unique resources, cultural and agricultural values of the Delta as an evolving place for the next century."

3. Page 6, line 4: In addition to creating an exemption for the State Water Project and Central Valley Project, a similar exemption should be created for the flood control and drainage responsibilities of Delta Reclamation Districts. The coequal goals and protection and enhancement of Delta cultural, recreational, and agricultural resources can only be accomplished if adequate flood protection and drainage are maintained. To significantly add to the regulatory burden of Reclamation Districts could make providing crucial services more cumbersome, costly and time-consuming, and could make accomplishing the objectives of the Delta Plan more difficult.

4. Page 7, line 8: Important planning efforts other than Bay Delta Conservation Plan (BDCP), which may be incorporated in the Plan, should be enumerated and detailed.

5. Page 8, line 14: Add a bullet to read as follows:

♦ *"Adversely impact cultural, recreational or agricultural values of the Delta."*

6. Page 15, lines 6-8: While there may be no expectation to delay decisions to wait for improved science, decisions should not be made on conjecture or on poor science, even if it is the best available at the time. There should be standards which must be met before decisions are made and actions taken.

7. Page 21, lines 22-25: Enumerate and detail the plans being considered for incorporation (See comment #4.)

8. Page 24, lines 8-9, GP P2: Change the second sentence to read as follows:

The Council is committed to achieving the coequal goals in a manner that protects and enhances the unique cultural, recreational, natural resources and agricultural values of the Delta as an evolving place.

9. Page 26, lines 4, 11, and 21, GP P10: Add the word "*eight*" before "*objectives*".

10. Page 27, GP R1: Funding for a new flood management district must be articulated and expanded beyond the current system of landowner pays. Clearly, the largest beneficiary of adequate flood protection has been, is, and will be the billions of dollars of economic activity generated by water exported from the Delta.

If all beneficiaries of Delta services are assessed and the new agency is not hamstrung by regulatory burden (see comment # 3), this concept could become a beneficial flood protection tool which could protect and enhance the unique cultural, recreational, natural resources, and agricultural values of the Delta and effectively address conditions as they evolve.

11. **Page 29, line 17 WR P1 (c) & Page 30 Line 1, WR P1 (d):** To arbitrarily determine all projects are inconsistent with the Delta Plan puts all objectives of the Plan at risk. There should be language which allows for the DSC to move forward by applying interim standards or the most recently adopted standards.

12. **Page 30, line 4, WR P2:** What is the “study area”? **Page 4** discusses and delineates a primary and secondary planning area. How does this relate to the study area in this policy?

13. **Page 31, line 20, WR P5:** An additional bullet should be added:

- ◆ Detailed economic and environmental analysis of the impact on the area sourcing the water.

14. **Page 31, WR P6:** This policy is inconsistent with the objective of protecting and enhancing the unique cultural, recreational and agricultural values of the Delta. Because there are multiple alignments for conveyance and large areas of the Delta which have been designated as potential ecosystem restoration opportunity areas, the impact of this policy on current and future land uses will be devastating. In addition, there is no legal right to restrict activities based on such broad and elusively defined boundaries. **This policy should be deleted.**

15. **Page 32, WR R3:** Reliance on the Delta should be based on the volume of exports from the watershed--not on new diversion sites. In addition, there should be not be a provision for increased dependence on the Delta even when the proposed project has evaluated and implemented all other practicable water supply alternatives as stated in this policy.

16. **Page 33, ER P1:** This policy is inconsistent with the objective of protecting and enhancing the unique cultural, recreational and agricultural values of the Delta. While ecosystem restoration is a coequal value, it must be accomplished in a manner that does not harm other values in the Delta. This policy has the potential to restrict uses in a very large part of the Delta, not just areas which will become the focus of ecosystem restoration. This policy should more narrowly define the area of ecosystem restoration opportunity or wait until a more detailed ecosystem restoration plan is available.

17. **Page 34, ER P3:** This policy is inconsistent with the objective of protecting and enhancing the unique cultural, recreational and agricultural values of the Delta. The ER P3 should be applied only where there is a clear legal right, such as bypass flow easements, to restrict landowner activities to those that do not preclude ecosystem restoration.

18. **Page 34, ER P5:** Please see comment #11.

19. **Page 35, Line 1, ER P6:** This policy is unreasonably broad and therefore, is inconsistent with protecting and enhancing the unique cultural, recreational, natural resource and agricultural values of the Delta. This policy is not necessary because local or regional land use plans must be consistent with the Delta Plan. **This policy should be deleted.**

20. **Page 41, Line 23, RR P6:** This policy describes a large part of the Delta as potential flood plains and would restrict activities as if they were part of the Yolo Bypass, where there are flow easements and legal restrictions on activities. Applying these same restrictions to other areas of the Delta not encumbered by legal restrictions would be inconsistent with the objective to protect and enhance the unique cultural, recreational, natural resource and agricultural values of the Delta. **This policy, as it pertains to areas of the Delta not encumbered with flood flow easements, should be deleted.**

21. **Page 43, RR R2 and R3:** Because the State has a major role in the maintenance of levees and the Delta Plan created by a State Council will directly impact the condition of levees throughout the Delta, **these recommendations to immunize the State from liability for levee failures should be deleted.**

22. **Page 43, RR R4:** Development needs to be defined so that this 100-foot buffer or easement does not adversely impact protection and enhancement of the unique cultural, recreational, natural resource and agricultural values of the Delta.

23. **Page 44, RR R6:** Any new assessment district should be organized and authorized to assess all beneficiaries of Delta Services (See comment #10.)

24. **Page 45, DP P1:** This policy is too restrictive. If the Economic Sustainability Plan is determined to be inconsistent in whole or in part with the Delta Plan, there needs to be a process for resolution of the inconsistencies. Predetermining that all municipal, industrial, and/or agricultural development activities are inconsistent with the Delta Plan is in conflict with the Delta Plan's objective to protect and enhance the unique cultural, recreational, natural resource and agricultural values of the Delta.

25. **Page 46, DP R2:** "Payments in lieu of taxes" is subject to budgetary constraints, and many times is not funded. Because many special districts (including reclamation districts) support the unique cultural, recreational, natural resource and agricultural values of the Delta, a more definite requirement to maintain income flow for special districts and local governments is required.

26. **Pages 47-53 Finance Plan to Support the Coequal Goals:** One of the eight objectives inherent in the coequal goals is to establish a governance structure and secure funding to achieve these objectives. Clearly, the coequal goals are driving the need for a finance plan. Although there are many funding sources discussed in the finance plan and contained in the recommendations, the financial responsibility for the plan should rest on the beneficiaries of the coequal goals. Any plan to finance the Delta Plan should be borne by those who benefit from more reliable water and associated ecosystem restoration.

The Delta Caucus understands the need for the coequal goals and appreciates and expects that they will be pursued in a manner that protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place.

Thank you for the opportunity to respond.

Sincerely yours,

A handwritten signature in black ink, reading "Russell van Loben Sels". The signature is written in a cursive style with a large, stylized 'R' and 'S'.

Russell van Loben Sels
Chairman



January 28, 2011

Ms. Terry Macaulay
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Submitted Via Email: deltaplanscoping@deltacouncil.ca.gov

RE: Delta Plan, Notice of Preparation

Dear Ms. Macaulay:

In an effort to protect and promote the viability of Delta agriculture, five Delta County Farm Bureaus (Contra Costa, Sacramento, San Joaquin, Solano and Yolo) joined together in 2009 to form the Delta Caucus. The Delta Caucus understands the need for water reliability statewide and supports efforts and processes to responsibly plan for California's water future and to protect and restore the Delta ecosystem while enhancing the recreational, natural resources and agricultural values.

As the effort begins to establish your required Delta Plan, we would like you to consider the following comments directed specifically at the notice of preparation:

1. The scoping document for the Delta Plan includes measures to promote a more reliable water supply by applying the public trust doctrine and the principles of reasonable and beneficial uses of water. In the EIR, these principles need to be thoroughly explained and defined above and beyond the California Constitution, with measures to petition any decision made by the Council. In addition, the EIR must explain how these principles will operate within the multitude of existing legal restrictions, priorities, water quality requirements, and existing water contracts such as but not limited to the North Delta Water Agency contract and riparian rights. The EIR must include a detailed analysis of all legal constraints on water exports in order to develop a range of conveyance alternatives, including the Delta Corridors Plan, which are consistent with the amount of water available for export from the Delta watershed.
2. The scoping document identifies two planning areas:
 - The Primary Planning Area (The Delta Suisun Marsh).
 - The Secondary Planning Area (The Delta watershed, tributaries to the Delta watershed, and areas that use water exported from the Delta watershed.)

For purposes of the EIR, we would suggest further dividing the Secondary Planning Area into two separate units:

- The Delta watershed and adjacent tributaries to the Delta watershed; and
- Areas that use water exported from the Delta watershed via state and federal projects.

Water use within a watershed and exporting water from a watershed create different impacts. Once water is exported from a watershed, all beneficial uses within the watershed cease, causing a different set of impacts than if the water were used within the watershed where runoff is captured and used again and again both for economic purposes and by the environment of the watershed. In addition, the impacts associated with removal of water from a watershed will vary depending upon quantity removed, when it is removed, point of removal and other factors. For example, an in watershed user may use an allocation, treat it or recycled it, leaving the water to be inserted back into the basin thus creating multiple uses of the same water molecules. Exported water however does not enjoy the same opportunities.

3. The Delta Plan must include quantified or otherwise measurable targets for achieving the objectives of the Delta Plan. Two areas which should be subject to quantifiable evaluation are reduced dependence on the Delta and protection of the Delta as a place to include Delta agriculture.

4. Within the EIR, proposed requirements for agriculture must be based on economic feasibility and allow for flexibility (in the presence of all regulatory requirements) in order to provide a viable, sustainable agricultural environment.

5. The NOP (p. 23) refers to expanding the use and ability to use eminent domain to further the policy objectives of the plan. There needs to be a clear understanding of the chilling affect of the threat of eminent domain. Already the threat of eminent domain has killed land sales and depressed land values, and some landowners have stopped investing for the future of their family farms. To the greatest extent possible, eminent domain should be rejected as a means to accomplish the goals of the Delta Plan. Failure to do so will shut down the economic engine of the Delta, Agriculture.

6. To protect and enhance the Delta and develop land use regulations, strategies to combat the effects of global warming should be developed assuming existing sea level and hydrological conditions and a range of future conditions over time.

7. The EIR should also address the funding mechanism and requirements for implementation of this plan. There are many proposals that require other state agencies and processes to complete research and studies, and implementation and oversight that will likely not have funding available to carry out these responsibilities. The EIR should address these fiscal issues in detail.

8. It has been long understood the state water system has been woefully unable to provide for the state's rapid growth in population. These high rates of growth have been typically in regions with less rainfall, correlating to with increasing dependence on the Delta. Additionally, there has been significant deterioration of groundwater resources due to over drafting scenarios. As such, in its current condition, our state water system is struggling to support almost twice the population than the system was designed for. This alone has created an emergency situation. We believe there must be a wide breadth of storage and new supply alternatives studied in this EIR to equate Agriculture, Environment, and Urban needs on equal footing. Agriculture must continue to receive a high priority, because without food and fiber we cease to provide for the population demands of this state and our nation, as well as continue to hold value with beneficial

habitat for an important ecosystem.

In addition, we have these general comments regarding impacts and concerns about the Delta Plan:

1. Improving the water conveyance system in the Delta does not necessarily mean building a new system. The EIR should thoroughly explore whether or not major investment in new conveyance around the Delta is consistent with reduced reliance on the Delta as a reliable water source for the State of California. Is there enough water in the Delta watershed to support a major investment, and will that investment result in a reliable water supply or just institutionalize, perpetuate and accelerate ecosystem damage in the Delta? Would regional self-reliance and investment in projects to enhance and develop water supplies in areas which have become dependent on Delta water be more reliable over time than dependence on Delta water and should Delta conveyance be an interim solution while other viable options to develop a reliable water supply for the State of California are identified and developed?
2. The EIR must determine how each conveyance alternative will affect flood control and especially how each alternative will impact flood plains such as the McCormack Williamson Tract, the Hood-Franklin Pool, and the Yolo Bypass. The Delta Plan must not adversely impact flood safety in the Delta.
3. The EIR should identify in depth all plant communities and avian and terrestrial species which could be adversely impacted by creation of fish habitat. The analysis should include impacts caused by changes in water quality as well as large-scale conversion of both agricultural and wildlife habitat to fish habitat.
4. Redirected impacts caused by moving targeted fish from one area of the Delta to another must be identified and mitigated. For example, if distribution of Delta Smelt changed due to Delta Plan projects, water users where new populations become established should not be restricted from pumping.
5. The Delta Plan may contain elements which result in conversion of large areas of agricultural land into aquatic habitat and may result in destruction of critical agricultural infrastructure. Because agricultural lands tend to be considered the inventory for all other land uses, the EIR should examine the cumulative impacts of conversion of agricultural lands in the region to all other uses. Impacts should include loss of habitat for species such as the sandhill crane and loss of foraging habitat for migratory waterfowl. Conversion of agricultural land to other uses should be avoided to the greatest extent possible.
6. Finally, the EIR should study and detail the role of all levees in the Delta Plan. Delta levees are sustainable over time and will play a key role in the following:
 - Conveyance systems in the near and long term.
 - Protection of water quality for export as well as the fresh water Delta.
 - Maintaining critical terrestrial and avian habitat.
 - Protecting the Delta as a place, its agricultural and natural assets.
 - Reducing risks to people, property and the state interests.

Levees will play a key role in mitigating and avoiding negative impacts caused by the

Delta Plan in these areas identified in the NOP:

1. Agriculture
2. Biological Resources
3. Cultural Resources
4. Economics
5. Energy Resources
6. Geology and soils
7. Hydrology and Water Quality
8. Land Use and Land Use Planning
9. Mineral Resources
10. Paleontological Resources
11. Population, Employment and Housing
12. Recreation
13. Utilities and Public Service

Levees are key to the Delta Plan.

Thank you for the opportunity to submit scoping comments at this time. We look forward to further commenting on draft plans as they are developed.

Sincerely,

Farm Bureau Delta Caucus Members:

Contra Costa County Farm Bureau
Sacramento County Farm Bureau
San Joaquin Farm Bureau Federation
Solano County Farm Bureau
Yolo County Farm Bureau